

Edward S. McGlone
Edward McGlone Law Offices
7307 SW Beveland Road
Tigard, Or 97223
Telephone: 503.486.7048
Fax: 866.738.3290
esm@emcglonelaw.com
Attorney for Defendants Button, Meeks,
Mumey and City of Stayton

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

STEPHEN SJURSET, personally and as
next friend for N.S. and T.S ,

Plaintiff,

v.

MARY ANNE MILLER, in her individual
capacity; **MARIA RANDALL**, in her
individual capacity; **DYAN BRADLEY**, in
her individual capacity; **CARYN**
MOLLER, in her individual capacity;
CHARLES BUTTON of Stayton City Police
Department, in his Individual and
official capacity; **MICHAEL MEEKS** of
Stayton City Police Department, in his
Individual and official capacity; **SCOTT**
MUMEY of Stayton City Police
Department, in his Individual and
official capacity; and **CITY OF**
STAYTON, a municipal entity,

Defendants.

Case No: 6:12-cv-00282-AA

**ANSWER AND AFFIRMATIVE DEFENSES
OF DEFENDANTS BUTTON, MEEKS,
MUMEY AND CITY OF STAYTON**

JURY TRIAL DEMANED

Comes now Defendants Button, Meeks, Mumey and City of Stayton ("Stayton
Defendants") and by way of answer admits, denies and alleges as follows:

**1 – ANSWER AND AFFIRMATIVE DEFENSES
(STAYTON DEFENDANTS)**

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1. Paragraph 1 is not a proper form of pleading and is comprised primarily of legal conclusions that require no answer, but to the extent any answer to the allegations is deemed necessary, they are denied.
2. Answering paragraph 2 the Stayton Defendants submit to the personal jurisdiction of the court and admit that it has jurisdiction over the subject matter of the complaint.
3. Answering paragraph 3 the Stayton Defendants admit proper venue.
4. Answering paragraph 4 the Stayton Defendants admit the parentage and birthdates of the minors is as alleged in said paragraph and that N.S., T.B., Sjurset and Borchers were Marion County residents on February 20, 2010. The Stayton Defendants lack sufficient knowledge to form a belief as to the truth of the remaining allegations of paragraph 4 and, therefore, deny same.
5. Stayton Defendants admit paragraph 5.
6. Answering paragraph 6 the Stayton Defendants admit that at all relevant times Miller, Randall and Moller were Oregon resident's employed by Oregon DHS and that Bradley was an Oregon resident employed as a supervisor with Oregon DHS. The remaining allegations constitute legal

**2 – ANSWER AND AFFIRMATIVE DEFENSES
(STAYTON DEFENDANTS)**

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conclusions that require no answer, but to the extent any answer to the allegations is deemed necessary, they are denied.

7. Answering paragraph 7 the Stayton Defendants admit that at all relevant times the individual Stayton Defendants were residents of the State of Oregon and that their actions on February 19-20, 2010 were taken in their capacity as employees of the City of Stayton. The remaining allegations constitute legal conclusions that require no answer, but to the extent any answer to the allegations is deemed necessary, they are denied.
8. Stayton Defendants admit that Moller attempted to contact Borchers and Sjurset on February 18, 2010 but lack sufficient knowledge to form a belief as to the truth of the remaining allegations of paragraph 8 and, therefore, deny same.
9. Answering paragraph 9 the Stayton Defendants admit that on February 19, 2010 the Stayton Police Department received a request from Moller to perform a welfare check on T.B. and N.S. As part of that request she asked that DHS be contacted if T.B. and N.S. were found to be at the home. The following day, at approximately 9:15 pm Button attempted to conduct the requested check. He confirmed that T.B. and N.S. were in the home, but plaintiff and Borchers prevented him from conducting the welfare

**3 – ANSWER AND AFFIRMATIVE DEFENSES
(STAYTON DEFENDANTS)**

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check. It is further admitted that in the course of this contact, Button radioed for a cover unit and, as requested the prior day, had DHS notified. Except as so admitted, Stayton Defendants deny each and every allegation of said paragraph.

10. Answering paragraph 10 the Stayton Defendants admit that Defendant Miller, either on her own, or working jointly with other individuals employed by DHS, made the determination that a lawful basis existed to take custody of T.B. and N.S. Stayton Defendants lack sufficient knowledge to form a belief as to the truth of the remaining allegations of paragraph 10 and, therefore, deny same.

11. Answering paragraph 11 the Stayton Defendants admit that upon her arrival on the scene, Miller contacted Plaintiff and Borchers and in the course of that contact advised them that she was taking custody of T.B. and N.S. Relying on Miller's determination that she had lawful authority to take this action, Defendants Button, Meeks, and Mumey stood by to assure the safety of all involved while Miller took physical custody of the children. Except as so admitted, Stayton Defendants deny each and every allegation of said paragraph.

12. Stayton Defendants deny the allegations of paragraph 12.

**4 – ANSWER AND AFFIRMATIVE DEFENSES
(STAYTON DEFENDANTS)**

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13. Stayton Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of paragraph 13 and, therefore, deny same.

14. Stayton Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of paragraph 14 and, therefore, deny same.

15. Answering paragraph 15 the Stayton Defendants admit that the actions of Defendants Button, Meeks, and Mumey did not violate any policy, procedure or custom of the Stayton Police Department. Except as so admitted, Stayton Defendants deny each and every allegation of said paragraph.

16. Stayton Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of paragraph 16 and, therefore, deny same.

17. Stayton Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of paragraph 17 and, therefore, deny same.

18. Answering paragraphs 18 through 20 Stayton Defendants lack sufficient knowledge to form a belief as to the truth of these allegations of purely emotional distress and deny those claims on that basis. Stayton Defendants further deny that any of their conduct unreasonably cause the distress alleged or that plaintiff is entitled to any award of damages.

**5 – ANSWER AND AFFIRMATIVE DEFENSES
(STAYTON DEFENDANTS)**

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19. Paragraphs 21 through 25 are comprised primarily of legal conclusions that require no answer, but to the extent any answer to said paragraphs is deemed necessary, they are denied.
20. Except as expressly admitted above, Stayton Defendants deny each and every allegation of the complaint.

Affirmative Defenses

21. Defendants Button, Meeks, and Mumey are entitled to qualified immunity as at all times relevant they were acting in good faith reliance on Defendant Miller's determination that she had a lawful basis to take custody of N.S. and T.B., and they took no independent actions that violated any clearly established right of N.S., T.B. or Sjurset.
22. The complaint fails to properly plead any claim for relief against the Stayton Defendants.

WHEREFORE, Stayton Defendants seek judgment dismissing the plaintiffs'

Complaint, granting an award of attorney fees pursuant to 42 U.S.C.

§ 1988(b), together with their costs and disbursements and such other relief as the court deems to be just.

Stayton Defendants demand trial by jury.

Dated this 2nd day of May, 2012.

/s/ Edward S. McGlone

Edward S. McGlone, OSB# 823316
Attorney for Defendants Button,
Meeks, Mumey and City of Stayton